

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 08-CR-340
17-C-0813

OMARR LOWE,

Defendant.

ORDER

Defendant Omar Lowe was found guilty by a jury of Conspiracy to Distribute Cocaine, Distribution of Cocaine, Possession of Cocaine with Intent to Distribute, and Possession of a Firearm in Furtherance of a Drug Trafficking Offense and sentenced to ten years in prison. The Judgment of Conviction was entered on November 25, 2009. Lowe appealed, and the judgment was affirmed by order of the United States Court of Appeals for Seventh Circuit on August 10, 2010. On June 8, 2017, Lowe filed a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. The motion is denied.

First of all, Rule 60 of the Federal Rules of Civil Procedure has no application to a criminal conviction. *See* Fed. R. Civ. P. 1 (“These rules govern the procedure in all civil actions and proceedings in the United States district courts . . .”). Rule 60 of the Federal Rules of Criminal Procedure concerns victims’ rights, not the rights of criminal defendants seeking relief from their convictions. Although post-conviction relief can be sought under 28 U.S.C. § 2255, a motion seeking such relief must be filed within one year of the underlying judgment becoming final, absent a government-caused impediment to filing earlier or the Supreme Court’s recognition of a new right giving rise to a claim to relief. 28 U.S.C. § 2255(f). Lowe’s judgment has been final for almost

seven years, and there is no suggestion of any impediment that prevented Lowe from filing earlier or a newly recognized right to relief. Clearly, the time within which to challenge his conviction has long since passed. Accordingly, his motion for relief from judgment is denied. To the extent the motion can be construed as a motion for relief under 28 U.S.C. § 2255 it is likewise denied and the action dismissed.

SO ORDERED at Green Bay, Wisconsin this 9th day of June, 2017.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court